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# Supreme Court of the United States.

No. 407.—October Term, 1903.

Dan. Rogers, Plaintiff in Error, vs. The State of Alabama. } In error to the Supreme Court of the State of Alabama.

[January 18, 1904.]

Mr. Justice Holmes delivered the opinion of the Court.

This is a writ of error to the Supreme Court of Alabama, brought on the ground that the plaintiff in error, one Rogers, has been denied the equal protection of the laws guaranteed by the Fourteenth Amendment of the Constitution of the United States. Rogers was indicted for murder and in due time filed a motion to quash the indictment because the jury commissioners appointed to select the grand jury excluded from the list of persons to serve as grand jurors all colored persons, although largely in the majority of the population of the county, and although otherwise qualified to serve as grand jurors, solely on the ground of their race and color and of their having been disfranchised and deprived of all rights as electors in the State of Alabama by the provisions of the new constitution of Alabama. The motion alleged that the grand jury was composed exclusively of persons of the white race, and concluded with a verification. To show the reality of the second reason alleged for the exclusion of blacks from the grand jury list the motion, as a preliminary, alleged that the sections of the new constitution which were before this Court in *Giles* v. *Harris*, 189 U. S. 475, were adopted for the purpose and had the effect of disfranchising all the blacks on account of their race and color and previous condition of servitude. On motion of the State this motion to quash was stricken from the files. Rogers excepted, but his exceptions were overruled by the Supreme Court of the State, seemingly on the ground that the prolixity of the motion was sufficient to justify the action of the court below. The Civil Code of Alabama provides by § 3286, "if any pleading is unnecessarily prolix, irrelevant, or frivolous, it may be stricken out at the costs of the party so pleading, on motion of the adverse party."

We follow the construction impliedly adopted by the Supreme Court of Alabama, and assume that this section was applicable to the motion. We also assume, as said by the court, that the qualifications of the grand

jurors are not in law dependent upon the qualifications of electors, and that any invalidity of the conditions attached to the suffrage could not of itself affect the validity of the indictment. But in our opinion that was not the allegation. The allegation was that the conditions said to be invalid worked as a reason and consideration in the minds of the commissioners for excluding blacks from the list. It may be that the allegation was superfluous and would have been hard to prove, but it was not irrelevant, for it stated motives for the exclusion which, however mistaken, if proved tended to show that the blacks were excluded on account of their race, as part of a scheme to keep them from having any part in the administration of the government or of the law. The whole motion takes two pages of the printed record, of the ordinary octavo size. A motion of that length, made for the sole purpose of setting up a constitutional right and distinctly claiming it, cannot be withdrawn for prolixity from the consideration of this Court, under the color of local practice, because it contains a statement of matter which perhaps it would have been better to omit but which is relevant to the principal fact averred.

It is a necessary and well settled rule that the exercise of jurisdiction by this Court to protect constitutional rights cannot be declined when it is plain that the fair result of a decision is to deny the rights. It is well known that this Court will decide for itself whether a contract was made as well as whether the obligation of the contract has been impaired. *Jefferson Branch Bank* v. *Skelly*, 1 Black, 436, 443. But that is merely an illustration of a more general rule. On the same ground there can be no doubt that if full faith and credit were denied to a judgment rendered in another State upon a suggestion of want of jurisdiction, without evidence to warrant the finding, this Court would enforce the constitutional requirement. See *German Savings and Loan Society* v. *Tull*, (Jan. 4, 1904.) In *Chapman* v. *Crane*, 123 U. S. 540, 547, 548, where the parties sought to avoid the obligation of a former decree by new matter, this Court said that the effect of what was done was not a Federal question, but proceeded to inquire in terms whether that ground of decision was the real one, or whether it was set up as an evasion and merely to give color to a refusal to allow the bar of the decree. We are of opinion that the Federal question is raised by the record and is properly before us. That question is disposed of by *Carter* v. *Texas*, 177 U. S. 442, and it was error not to apply that decision. The result of that and the earlier cases may be summed up in the following words of the judgment delivered by Mr. Justice Gray: "Whenever by any action of a State, whether through its legislature, through its courts, or through its executive or administrative officers, all persons of the African race are excluded, solely because of their race or color, from serving as grand jurors in the criminal prosecution of a person of the African

race, the equal protection of the laws is denied to him, contrary to the Fourteenth Amendment of the Constitution of the United States. *Strauder* v. *West Virginia*, 100 U. S. 303; *Neal* v. *Delaware*, 103 U. S. 370, 397; *Gibson* v. *Mississippi*, 162 U. S. 565." Our judgment upon this point makes it unnecessary to consider a motion to quash the panel of the petit jury for similar reasons, which was disposed of as having been made too late.

*Judgment reversed, and case remanded for further proceedings not inconsistent herewith.*

True copy.

Test:

*Clerk Supreme Court, U. S.*